

Declaration of Marvin F. Bozarth under 37 C.F.R. § 1.132

I, Marvin F. Bozarth, declare as follows:

1. I am President of Bozarth Tire Industry Consultants LLC of Louisville, Kentucky. A copy of my resume is attached as Exhibit A. As it shows, I have over 44 years experience, and am recognized as an expert, in the tire industry. The resume accurately summarizes my experience. One fact it does not state is that, in 2002, I was elected to the tire industry Hall of Fame.
2. Stephen Kaplan, the named inventor in the above-referenced U.S. Patent Application, recently asked me for my views concerning (a) what those working in the tire industry understand to be the "tread," "shoulder" and "sidewall" of a tire; and (b) an English language translation (Exhibit B) of what I understand to be Japanese Patent Application No. 2-197403 (the '403 application.). In addition to this English language translation, I also read a copy of what I understand to be Mr. Kaplan's pending U.S. patent application (Exhibit C).
3. In the tire industry, the word "tread" is used in two contexts. Usually, it is used to refer to the radially outwardly facing tread surface; in a truck or automobile tire this is the surface formed by the design elements (the tread and groove design) that are intended to engage the road. However, the word "tread" is also used to refer to the portion of the tire, typically molded as a unit, that is attached to the periphery of the tire carcass. In a truck or automobile tire, this molded unit includes both the design elements that form the tread surface that engages the road and also the design elements on what is conventionally referred to as the "shoulder."
4. The word "shoulder" is commonly understood to refer to the region immediately below (radially inwardly from) the outwardly-facing tread surface. In a truck or automobile tire, the "shoulder," like the tread surface, contains design elements from the mold, typically ribs and grooves.
5. The "sidewall" is generally understood to be the region, below the shoulder, where the design features from the mold end and the tire surface becomes smooth.
6. The photograph of a Michelin tire, attached as Exhibit D, illustrates these terms as they are commonly used. As shown in this photograph, the tire mold creates the design elements (the rib and grooves) that form the generally outwardly facing "tread surface," and also the design elements (also ribs and grooves) in the "shoulders" at the opposite sides of the tire below (radially inwardly from) the tread surface. The "sidewall" begins where the design elements (the ribs and grooves) created by the mold end and the tire surface becomes smooth.
7. In Mr. Kaplan's patent application, the terms "tread", "shoulder", and "sidewall" are used in a manner consistent with the commonly understood meanings I have discussed above. Those working in the tire industry would understand that the terms were used in this conventional and well-understood way and would clearly understand that, as used in Mr. Kaplan's application, the word "shoulder" means the part of the tire that is positioned radially inwardly of the outwardly facing tread surface and outward of the "sidewall." Figure 3 in particular shows that the design

elements, ribs 40 and grooves 38, form both the outwardly facing tread surface and also the shoulder which includes the low friction material 34.

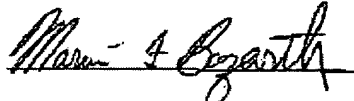
8. The '403 application refers to "tread 2", and in its Figures 1-5 the reference number "2" points to the outwardly facing tread surface. The use of the word "tread" to refer to this outwardly facing surface in this context is consistent with one of the word's generally understood meanings, and seems consistent with the way the word is used throughout the Japanese application ("frictional force between a tread 2 of the tire and a road surface"; "2 is a tread on the tire 1"; "frictional force between the tread and the road surface").

9. The '403 application also uses the terms "shoulder and "sidewall" in ways that seem consistent with the general understanding of those in the tire industry - the "sidewalls" are "surfaces on both the right side and the left side of the tire between the tread 2 and the bead 3"; and the "shoulder" is the "border between the sidewall and the tread 2", that is, the region between the sidewall and the tread surface.

10. What the '403 application seems to regard as important is what it refers to as "low-friction member 8". It says that "low friction member 8" is "on the surface of the sidewall", and that this low friction member "will contact the road surface" "if the air pressure in the tire is insufficient, the load is excessive, or unduly hard turns made on a high friction road surface." It also says that "under standard driving conditions, ... when a sudden turn is made, only the tread 2 and the ... shoulder contact the ground so that the low-friction member 8 does not contact the ground."

11. With the benefit of over 44 years of experience in the tire industry, it is clear to me that the "low-friction member 8" of the '403 application is not, and would not be understood by those in the tire industry to be, located on the "shoulder." The '403 application does not suggest any reason that low friction material should be located on the shoulder.

I further declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true and further that these statements are made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issuing thereon.



Marvin F. Bozarth

Date: 10-28-05